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IN THE

Supreme Court of the United States

OCTOBER TERM, 1967

No. 70

ALITALIA-LINEE AEREE ITALIANE, S.p.A.,

Petitioner,

—v.—

JOHN LISI, *et al.*,

Respondents.

RESPONSE IN OPPOSITION TO MOTIONS OF ITALY AND THE UNITED KINGDOM FOR LEAVE TO FILE BRIEFS *AMICUS CURIAE*

THEODORE E. WOLCOTT
Attorney for Respondents
36 West 44th Street
New York, N. Y. 10036

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Preliminary Note

The Republic of Italy and the United Kingdom have each made extremely belated motions for leave to file a brief *Amicus Curiae.* In the interest of brevity the respondents are presenting this single opposing Response to both motions.

It is well known that the Republic of Italy owns and controls Alitalia Airlines, the defendant—petitioner in this case. It is also well known that the United Kingdom owns and controls British Overseas Airways Corporation (BOAC) and British European Airways (BEA) which are engaged in commercial international air transportation. It is clear that these motions in reality are being made by national commercial air carriers cloaked in gov-

ernmental aura and that these applications are not necessarily in the public interest.

The Petition for a Writ of Certiorari was filed herein on or about March 21, 1967. Since that time a seemingly endless series of applications to file *Amicus* briefs favoring Alitalia Airlines (accompanied by briefs nevertheless) have been filed by various commercial airline interests. These are the latest applications, and it is respectfully submitted they are too late. Unfortunately, the respondent—passenger survivors do not have the resources to continually prepare and print opposing briefs. It is respectfully requested that the court treat any future applications of this nature as opposed by the respondents on the basis of their briefs previously filed herein. It is respectfully submitted that the briefs attached to the applications should be stricken. The Response herein has not attempted to answer the briefs in detail for the above reasons.

The Motions Should Be Denied

It is respectfully submitted that the motion should be denied forthwith for the following additional reasons:

1. The motions do not set forth facts or questions of law that have not been presented by the Petition for a Writ of Certiorari. The decision herein of the Court of Appeals determined a simple issue and merely held that the exculpatory provisions in a ticket delivered to a passenger must be in readable form within the purposes of the convention. The exaggerated postures assumed by movants is unwarranted. As was said by the Solicitor General at page 9 of the *Amicus* brief submitted herein by the United States at the request of this court: "the decision below is of little prospective importance."

2. The movants (or their *alter egos*) appear to be somewhat critical of our judicial system and its operation here in the broad public interest. But the United States at page 6 of its brief has specifically stated:

> "The holdings of the courts below . . . represents, in our view a proper performance of the judicial duty of the courts of contracting states to implement the broad provisions of the Convention."

CONCLUSION

WHEREFORE it is respectfully submitted that the motions be denied.

Respectfully submitted,

THEODORE E. WOLCOTT
Attorney for Respondents
36 West 44th Street
New York, N. Y. 10036